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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COPYTELE, INC., a Delaware
Corporation,

Plaintiff,

v.

E INK HOLDINGS, INC., a Taiwanese
corporation; and E INK CORPORATION,
a Delaware corporation,

Defendants.

Case No. 3:13-cv-00378-EMC

**STIPULATION AND [PROPOSED]
ORDER TO MODIFY BRIEFING
SCHEDULE AND CONTINUE HEARING
DATE ON MOTION TO DISMISS**

Date: June 6, 2013
Time: 1:30 p.m.
Dept: Courtroom 5, 17th Floor
Judge: The Honorable Edward M. Chen

1 WHEREAS, on January 28, 2013, Plaintiff CopyTele, Inc. (“CopyTele”) filed a complaint
2 (“Complaint”) against Defendants E Ink Holdings, Inc., a Taiwanese corporation, and E Ink
3 Corporation, a Delaware corporation (collectively “E Ink”);

4 WHEREAS, on January 28, 2013, CopyTele filed a complaint against E Ink Holdings, E
5 Ink Corp., and AU Optronics Corporation (“AUO”) in the related case No. 3:13-cv-00380-EMC
6 (“Related Complaint”);

7 WHEREAS, on April 29, 2013, E Ink filed a motion to dismiss all claims against it in the
8 Complaint;

9 WHEREAS, on April 29, 2013, E Ink also filed a motion to dismiss all claims against it in
10 the Related Complaint;

11 WHEREAS, on April 29, 2013, E Ink also filed a motion in the alternative to stay the
12 claims against it in the Related Complaint pending arbitration;

13 WHEREAS, on April 29, 2013, AUO filed a motion to stay the claims against it in the
14 Related Complaint and compel arbitration;

15 WHEREAS, pursuant to this Court’s stipulated Order, the Case Management Conference
16 in this case is scheduled for June 6, 2013, at 1:30 p.m., the date and time that E Ink’s motion to
17 dismiss and AUO’s motion to compel arbitration are scheduled to be heard by the Court (Docket
18 No. 35);

19 WHEREAS, CopyTele’s lead counsel, Eric Fastiff, has a conflict with the scheduled June
20 6, 2013 hearing date for the aforementioned motions and Case Management Conference; Mr.
21 Fastiff is the Chair of the Board of Trustees of his children’s school and is required to preside
22 over the 8th grade graduation taking place that afternoon;

23 WHEREAS, CopyTele’s responses to the defendants’ motions are currently due May 13,
24 2013;

25 WHEREAS, in light of the number of motions and related issues to which CopyTele must
26 respond, CopyTele seeks a one-week extension until May 20, 2013, for CopyTele to respond to
27 the aforementioned motions;

28 WHEREAS, E Ink and AUO seek a one-week extension to file their reply briefs;

1 WHEREAS, pursuant to this Court's Notice of Unavailability this Court is unavailable
2 June 13, 2013;

3 WHEREAS, AUO's counsel are also unavailable for a hearing on June 13, 2013;

4 WHEREAS, counsel for all parties are all available for a hearing on June 27, 2013;

5 WHEREAS, continuing the Case Management Conference until June 27, 2013, the
6 same proposed hearing date as for E Ink's motion to dismiss, would promote judicial economy
7 and efficiency and facilitate productive case management; and

8 WHEREAS, with the Case Management Conference continued to June 27, 2013, the Case
9 Management Conference Statement would be due on or before June 20, 2013, pursuant to Civil
10 General Standing Order No. 6, and no other case deadline would be affected;

11 WHEREAS, the parties seek to modify the briefing schedule and continue the Case
12 Management Conference and the hearing on the motions until June 27, 2013;

13 **IT IS HEREBY STIPULATED AND AGREED** that:

- 14 1. CopyTele shall file its response to E Ink's motion to dismiss the Complaint on or
15 before May 20, 2013;
 - 16 2. E Ink shall file its reply brief on or before June 3, 2013;
 - 17 3. Both the Case Management Conference and the hearing on E Ink's motion shall be
18 continued from June 6, 2013 to June 27, 2013 at 1:30 p.m.;
 - 19 4. Pursuant to Civil General Standing Order No. 6, the Case Management Conference
20 Statement will be due on or before June 20, 2013.
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1 Dated: May 3, 2013

LIEFF, CABRASER, HEIMANN
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4 By: /s/ Eric B. Fastiff
Eric B. Fastiff

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Attorneys for Plaintiff COPYTELE, INC.

12 Dated: May 3, 2013

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14 By: /s/ Michael N. Rader
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19 *Attorneys for Defendant E INK CORPORATION*

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23 **ATTESTATION**

24 Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the
25 filing of this document has been obtained from the other signatories.

26 DATED: May 3, 2013

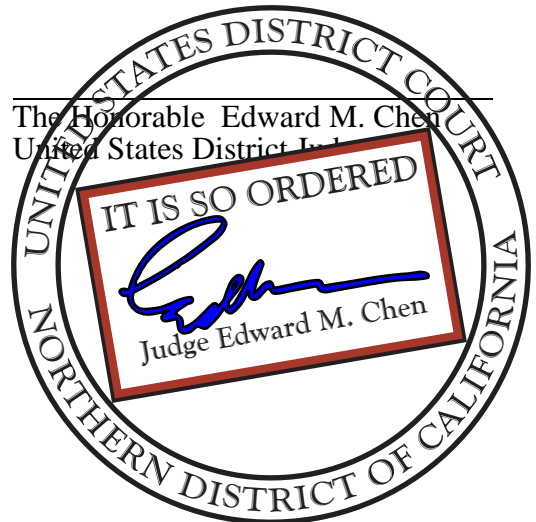
/s/ David T. Rudolph
David T. Rudolph

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. For good cause shown:

1. CopyTele shall file its response to E Ink's motion to dismiss the Complaint (Docket No. 38) on or before May 20, 2013;
2. E Ink shall file its reply brief on or before June 3, 2013;
3. Both the Case Management Conference and the hearing on E Ink's motion shall be continued from June 6, 2013 to June 27, 2013 at 1:30 p.m.;
4. Pursuant to Civil General Standing Order No. 6, the Case Management Conference Statement will be due on or before June 20, 2013.

Dated: 5/6, 2013



CERTIFICATE OF SERVICE

I hereby certify that, on May 3, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ David T. Rudolph
David T. Rudolph